

REMARKS:

In response to the Examiner's restriction requirement by Office Action mailed September 2, 2004, Applicant elects claims 13-30, or Invention II as defined by the Examiner, with traverse. However, reconsideration of the restriction requirement is respectfully requested in light of the following arguments.

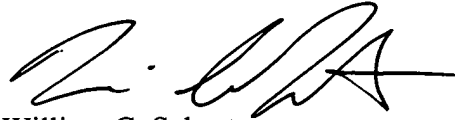
The Examiner asserts that claims 1-12 (Invention I), claims 13-30 (Invention II) and claims 31-32 (Invention III) are all patentably distinct from each other. The claims of Group I are directed to a solution comprising homogenously dispersed Chlorella diatoms having a specified maximum diameter. The claims of Group II relate to a method of producing a solution containing such Chlorella diatoms. The claims of Group III relate to a method of removing heavy metals from patients using a solution comprising such Chlorella diatoms.

There are two criteria for a proper requirement for restriction between patentably distinct inventions: 1) The inventions must be independent or distinct as claimed; and 2) There must be a serious burden on the examiner if restriction is required. *MPEP 803.01*. Although the inventions, as defined by the Examiner, are classified in separate classes, all claims relate to solution comprising Chlorella diatoms having a specified maximum diameter. It will be inefficient to prosecute these claims separately. Applicant submits that examination of all claims 1-32 would not be a serious burden on the Examiner, and therefore the restriction requirement is improper.

In light of the above, Applicant traverses the restriction requirement, and respectfully request withdrawal of same. Notwithstanding the traverse, Applicant elects Invention II, comprising claims 13-30.

Applicant submits herewith a Request for an Extension of Time for two (2) months, along with the requisite fee. It is believed that no other fees are due for this submission. Should that determination be incorrect, then please debit Account 50-0548 and notify the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. C. Schrot', with a stylized flourish at the end.

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